

IN THE UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA, FORT MYERS DIVISION

In Re:
DIOGENES E. PENA

Case No. 9:19-bk-10132-FMD

DEBTOR.

/

**TRUSTEE'S MOTION TO APPROVE STIPULATION
ON REPURCHASE OF ASSETS AND ABANDON
PROPERTY OF THE ESTATE**

COMES NOW the Trustee, Robert E. Tardif Jr., and moves the Court to approve the attached Stipulation and as grounds states that it would be in the best interest of the bankruptcy estate for the Stipulation to be approved. The terms of the Stipulation do not constitute a compromise.

NOTICE OF OPPORTUNITY TO OBJECT AND REQUEST FOR HEARING

Pursuant to Local Rule 2002-4, the Court will consider the relief requested in this paper without further notice or hearing unless a party-in-interest files a response within 21 days from the date set forth on the attached proof of service plus an additional three days for service if any party was served by U.S. Mail.

If you object to the relief requested in this paper, you must file a response with the Clerk of the Court at Sam M. Gibbons United States Courthouse, 801 N. Florida Avenue, Suite 555, Tampa, Florida 33602, and serve a copy on the Trustee, Robert E. Tardif Jr., Post Office Box 2140, Fort Myers, Florida 33902 and on the Assistant United States Trustee, 501 E. Polk Street, Suite 1200, Tampa, Florida 33602 and any other appropriate persons within the time allowed. If you file and serve a response within the time permitted, the Court will either schedule and notify you of a hearing, or may consider the response and grant or deny the relief requested without a hearing.

If you do not file a response within the time permitted, the Court will consider that you do not oppose the relief requested in the paper, will proceed to consider the paper without further notice or hearing, and may grant the relief requested.

WHEREFORE the Trustee moves the Court to enter an Order approving the terms of the Stipulation and directing that the Debtor comply with the terms of the Stipulation.

Certificate of Service

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished electronically to the Assistant United States Trustee and Robert Sanchez and by regular U.S. Mail to Diogenes E. Pena, 2600 NW 3rd Place, Cape Coral, FL 33993 and all creditors and parties in interest on the attached matrix on July 10, 2020.

/s/ Robert E. Tardif Jr.
Robert E. Tardif Jr., Esquire
P.O. Box 2140
Fort Myers, Florida 33902
Telephone: 239/362-2755
Facsimile: 239/362-2756
Email: rtardif@comcast.net

IN THE UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA, FORT MYERS DIVISION

In Re:

DIOGENES E PENA

Case No. 9:19-bk-10132-FMD

Debtor. _____ /

**STIPULATION ON REPURCHASE OF ASSETS AND TO
ABANDON PROPERTY OF THE ESTATE**

1. The Debtor shall be entitled to repurchase the equity in the non-exempt portion of the following property, as described on attached Asset Worksheet (Asset Numbers 3, 4, 5) by paying the total amount of \$2,047.53, as itemized in Column 3, payable over sixteen months: household goods, electronics, clothing. The Debtor shall pay \$127.97 beginning August 1, 2020, and continuing on the same day of each month thereafter for a total of fifteen months. The Debtor shall make a sixteenth and final monthly payment of \$127.98. The Debtor shall also surrender to the Trustee 10/12^{ths} of any 2019 tax refund, calculated after deduction of any earned income credit, which Trustee has received. All payments shall be mailed and be made payable to Robert E. Tardif Jr., Trustee, Post Office Box 2140, Fort Myers, FL 33902. If the Debtor pay more than the total amount referenced above, the Trustee is permitted to deposit and administer the funds. The Trustee may deposit post-dated checks upon receipt. In the event payment is not received by the Trustee within five calendar days after the due date and Trustee sends a demand letter, Debtor agree to pay a fee of \$75.00 for each letter sent, which will be added to the following payment due.

2. If the Debtor fail to pay as agreed or breach any other term or condition of this Stipulation, the Trustee shall have the right to accelerate the remaining balance due and to file an adversary proceeding for said sums together with estimated attorney's fees and costs for the need to file an adversary proceeding. Further, the Trustee shall have the right to seek the revocation or denial of the Debtor's discharge, as appropriate, due to the failure to comply with the terms of the Stipulation and Order approving the Stipulation. If the Debtor bounce any check, the Debtor shall only be allowed to pay by money order and shall pay any bank service charges as a result of the bounced check.

3. Additionally, Trustee intends to abandon the following property of the estate, which property is burdensome to the estate and/or is of inconsequential value to the estate:

PROPERTY	LIENHOLDER	LIEN	VALUE
Homestead 2600 NW 3 rd Place Cape Coral, FL 33993	Wells Fargo 1000 Blue Gentian Rd., #300 Eagan, MN 55121	\$139,207.46	\$167,959.00
2017 Hyundai Santa Fe	Santander Consumer USA P.O. Box 660633 Dallas, TX 75266	\$17,647.86	\$17,575.00

4. This Stipulation is subject to filing a Motion to Approve Stipulation and no objections or higher bids being received. If a higher bid is received, the Trustee shall notify the Debtor to arrange an auction. In the event the Debtor is not the high bidder for any property being repurchased at private sale, the Debtor will receive a refund of any funds paid by the Debtor for said property.

ROBERT E. TARDIF JR.
Attorneys for Trustee
P.O. Box 2140
Ft. Myers, FL 33902
Telephone: 239/362-2755

By: 

ROBERT E. TARDIF JR.
Florida Bar No. 818704

ROBERT SANCHEZ
Attorney for Debtor
355 W 49th Street
Hialeah, FL 33012
Telephone: (305) 687-8008

By: 

ROBERT SANCHEZ
Florida Bar No. _____


DIOGENES E. PENA

FORM 1
INDIVIDUAL ESTATE PROPERTY RECORD AND REPORT
ASSET CASES

Case Number: 19-10132 CED
Case Name: DIOGENES E PENA

Trustee: Robert E. Tardif Jr.
Filed (f) or Converted (c): 10/25/19 (f)
\$341(a) Meeting Date: 12/03/19
Claims Bar Date:

Period Ending: 05/29/20

1		2	3	4	5	6	7	8
Ref #	Asset Description (Scheduled And Unscheduled (u) Property)	Petition/ Unscheduled Values	Estimated Net Value (Value Determined By Trustee, Less Liens, Exemptions, and Other Costs)	Property Abandoned OA=\$554(a) Abandon	Sale/Funds Received by the Estate	Asset Fully Administered (FA)/ Gross Value of Remaining Assets	Lien Amount	Exempt Amount
1	HOMESTEAD- 2600 NW 3RD PLACE CAPE CORAL FL 33993-0000 LEE COUNTY	167,959.00	0.00	OA	0.00	FA	139,207.46	167,959.00
2	HYUNDAI SANTA FE 2017 54561 MILES	17,575.00	0.00	OA	0.00	FA	17,647.86	0.00
3	HOUSEHOLD GOODS (\$240.00 service fee added) Requested appraisal 2 COUCHES, LOVE SEAT, CENTER TABLE, 2 CORNER TABLES, 2 CHAIRS, 2 LAMPS AND MISCELLANEOUS DECORATIVE ITEMS.KITCHEN: REFRIGERATOR, TOASTER, COFFEE MAKER, DISHWASHER, STOVE, 6 CHAIRS, 12 POTS, 18 PLATES, 12 CUPS, 18 SILVERWARE	2,800.00	1,752.53		0.00	2,650.00	0.00	897.47
4	TV, DVD, STEREO, CELLPHONE, 2 COMPUTERS AND PRINTER.ALL IS OWN JOINTLY WITH NON-FILING SPOUSE. VALUE IS DEBTORSVALUATION BASED ON AGE AND CONDITION.	855.00	230.00		0.00	230.00	0.00	0.00
5	USED CLOTHES AND SHOES, VALUE IS DEBTORS VALUATION BASED ON AGEAND CONDITION.	60.00	65.00		0.00	125.00	0.00	60.00
6	CASH ON HAND	20.00	0.00		0.00	FA	0.00	20.00
7	SAVINGS ACCOUNT: SUNCOAST CREDIT UNION SAVINGS ACCOUNT NO.: XXXX2478-0000	5.00	0.00		0.00	FA	0.00	5.00
8	CHECKING ACCOUNT: SUNCOAST CREDIT UNION CHECKING ACCOUNT NO.: XXXX2478-0050	17.53	0.00		0.00	FA	0.00	17.53
9	SOUTHERN STATES SAVINGS AND RETIREMENT TRUST FUND BIMBO BAKERIES RETIREMENT ACCOUNT	153,902.60	0.00		0.00	FA	0.00	153,902.60
10	2019 TAX REFUND (u)	0.00	1,199.16		1,439.00	0.00	0.00	0.00
TOTALS (Excluding Unknown Values)		\$343,194.13	\$3,246.69		\$1,439.00	\$3,005.00	156,855.32	322,861.60

Major activities affecting case closing:

Label Matrix for local noticing
113A-9
Case 9:19-bk-10132-FMD
Middle District of Florida
Ft. Myers
Fri Jul 10 10:05:23 EDT 2020

Read and Kelley Estate Services, LLC
PO Box 3111
North Fort Myers, FL 33918-3111

Best Buy
Credit Services
PO Box 790441
Saint Louis, MO 63179-0441

Comenity Bank/HSN
PO Box 659584
San Antonio, TX 78265-9584

Onemain Financial, Inc.
986 Bernwood Place Drive
Fort Myers, FL 33966

Santander Consumer USA
PO Box 660633
Dallas, TX 75266-0633

Synchrony Bank
PO Box 960061
Orlando, FL 32896-0061

Robert E Tardif Jr.+
Trustee
Post Office Box 2140
Fort Myers, FL 33902-2140

Bradley Halberstadt +
Stewart Zlimen & Jungers, Ltd,
2860 Patton Road
Roseville, MN 55113-1100

Caryl E. Delano
Tampa
, FL

Santander Consumer USA Inc.
c/o Stewart, Zlimen & Jungers, Ltd.
2860 Patton Road
Roseville, MN 55113-1100

Capital One
PO Box 71083
Charlotte, NC 28272-1083

LVNV Funding LLC
c/o Mandarin Law Group
801 International Parkway
Suite 500
Lake Mary, FL 32746-4763

Quantum3 Group LLC as agent for
Credit Corp Solutions Inc
PO Box 788
Kirkland, WA 98083-0788

Synch/Amazon
PO Box 960013
Orlando, FL 32896-0013

Wells Fargo
1000 Blue Gentian Road
Suite 300
Eagan, MN 55121-7704

Robert E Tardif, Attorney for Trustee +
Robert E. Tardif, Jr., P.A.
Post Office Box 2140
Fort Myers, FL 33902-2140

Note: Entries with a '+' at the end of the
name have an email address on file in CMECF

Diogenes E Pena
2600 NW 3rd Place
Cape Coral, FL 33993-8781

Wells Fargo Bank N.A.
MAC N9286-01Y
1000 Blue Gentian Road
Eagan, MN 55121-7700

Capital One Bank (USA), N.A.
by American InfoSource as agent
PO Box 71083
Charlotte, NC 28272-1083

LVNV Funding, LLC
Resurgent Capital Services
PO Box 10587
Greenville, SC 29603-0587

Safeguard America
55 Sebeth Drive
Cromwell, CT 06416-1054

Synch/Paypal
PO Box 965005
Orlando, FL 32896-5005

Robert Sanchez +
Robert Sanchez PA
355 W 49th Street
Hialeah, FL 33012-3715

United States Trustee - FTM7/13 +
Timberlake Annex, Suite 1200
501 E Polk Street
Tampa, FL 33602-3949

End of Label Matrix
Mailable recipients 25
Bypassed recipients 0
Total 25